DOCUMENT RESUME

ED 394 457 HE 029 153

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| AUTHOR | McGuinness, Aims C., Jr. |
| TITLE | Restructuring State Roles in Higher Education. A Case Study of the 1994 New Jersey Higher Education Restructuring Act. |
| INSTITUTION | Education Commission of the States, Denver, Colo. |
| PUB DATE | Dec 95 |
| NOTE | 27p. |
| AVAILABLE FROM | Education Commission of the States, 707 17th St., Suite 2700, Denver, CO 80202-3427 (Publication No. PS-95-6; $5 plus $3 postage). |
| PUB TYPE | Reports - Descriptive (141) |
| EDRS PRICE | MF01/PC02 Plus Postage. |
| DESCRIPTORS | Case Studies; *Government School Relationship; Higher Education; Institutional Cooperation; *Planning Commissions; *Public Education; Public Officials; *State Boards of Education; State Colleges; *State Legislation; State Regulation; State Standards; Statewide Planning |
| IDENTIFIERS | New Jersey |

ABSTRACT

This report offers background information on the restructuring of higher education in New Jersey's State Department and Board of Higher Education in 1994, focusing primarily on the substance of the proposals, components of the legislation, and the process through which the changes were developed. Political debates and dimensions are not addressed except as they relate to the substantive issues raised by the new structure. During the 1970s and 1980s, New Jersey's higher education structure had features of comparatively decentralized institutional governance and strong State regulatory control. Prior to the Higher Education Restructuring Act of 1994, the autonomy of state colleges was even more limited than that of state universities because of overlapping authority and roles; the state's higher education structure was classified as a strong regulatory coordinating board state. The new structure eliminated the Board of Higher Education and the Department of Education and placed greater governance responsibility and authority on each public college's and university's board of trustees. The Commission on Higher Education was created, composed largely of lay members appointed by the governor and confirmed by the state Senate. An advisory board of all state public and independent college and university presidents was also created. Lessons and observations learned that may be relevant to other states are summarized. An appendix includes a side-by-side comparison of the highlights of New Jersey's previous and new higher education structure. (NAV)

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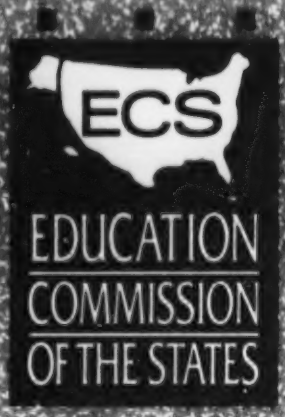


# POLICY PAPER on HIGHER EDUCATION

## Restructuring State Roles In Higher Education: A Case Study of the 1994 New Jersey Higher Education Restructuring Act

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# RESTRUCTURING STATE ROLES IN HIGHER EDUCATION

## A Case Study of the 1994 New Jersey Higher Education Restructuring Act

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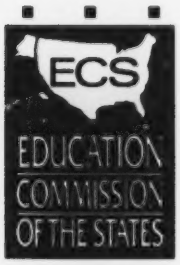


December 1995

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# ACKNOWLEDGEMENTS

This report was written by Aims C. McGuinness, Jr., senior associate at the National Center for Higher Education Management Systems (NCHEMS), a non-profit consulting organization in Boulder, Colorado. McGuinness, formerly a senior staff member for higher education at ECS, served as a consultant for the state-level restructuring of higher education roles described in this report. The interpretation of these events and the observations made are those of the author.

This report is one in a series of policy papers produced by the ECS Higher Education Unit. Amy Sebring, Josie Canales and Charles S. Lenth, Director of Policy Studies, contributed to various aspects of this report. Editorial assistance was provided by Kim Moyer.

ECS also acknowledges the numerous contributions of external reviewers to this report. In particular, Kristi Sarchet, education aide to Governor Christine Todd Whitman, provided valuable suggestions and additions on an earlier draft. Other reviewers included Jeanne Oswald, Richard Novak, Robert Scott, Rhonda Epper, Linda Lashley and Senator John Ewing.

# FOREWORD

"Restructuring" has many meanings and applications in higher education. Within colleges and universities, it means a close examination of curricula and departments in order to identify cost-saving measures and focus resources more effectively on high priority areas. Within postsecondary systems, restructuring means reallocating resources to better meet student and public needs through collaborative efforts, rather than relying solely on individual institutions. Restructuring at the state level can mean redesigning state higher education policies and structures to affect how state government and political leadership interact with colleges and universities. At each level, restructuring involves adapting these and other actions to the specific needs of institutions and states.

New Jersey has been at the forefront of state-level restructuring in higher education. This was most apparent in the 1994 proposal by Governor Christine Todd Whitman to replace the existing Board of Higher Education with new state-level roles. That gubernatorial initiative and the subsequent restructuring of state-level roles and responsibilities in New Jersey are described and analyzed in this monograph. As a result of these changes, New Jersey caught the eye of governors, legislators and higher education leadership in other states, many of whom wondered how much of the New Jersey experience was relevant to them.

As discussed in this report, many aspects of the New Jersey experience mirror the debates on appropriate state roles in higher education being held in governors' offices and statehouses nationwide. At the same time, little from New Jersey is transferrable as a "solution" in another context. New Jersey has a history of being quite distinctive in higher education. One need only point out the comparatively late commitment to public higher education, the strong reliance on private institutions and student financial aid, the emergence of county colleges, and the incentive funding and assessment initiatives during the 1980s to see that New Jersey is different from other states, at least in important details.

The Education Commission of the State (ECS) is pleased to publish this analysis of common themes involved in restructuring state higher education roles, set within the unique context of New Jersey. Since the 1970s, ECS has been a primary source of information on state higher education coordinating and governing structures. The ECS publication, *State Postsecondary Education Structures Handbook,* initiated and periodically updated by the author of this monograph, Aims C. McGuinness, Jr., analyzes the agencies and responsibilities for postsecondary education in all 50 states. In this and other ways, the ECS higher education unit helps meet the information needs of state policymakers and other interested parties, and provides external analysis of important topics.

This monograph is the first of a series of higher education policy papers forthcoming from ECS. Our sincere appreciation goes to the author and to others who have contributed their time and ideas.

Charles S. Lenth
Director of Policy Studies, Higher Education
Education Commission of the States

# RESTRUCTURING STATE ROLES IN HIGHER EDUCATION

## A Case Study of the 1994 New Jersey Higher Education Restructuring Act[1]

In 1995, legislatures in several states debated proposals to eliminate or downsize their state higher education agencies. These debates were part of a broader trend for political leaders to advocate cuts in state bureaucracies and to reshape state roles in education at all levels. A year earlier, Governor Christine Todd Whitman of New Jersey announced plans to restructure New Jersey's higher education system in her 1994 budget address. Subsequent actions by New Jersey state leaders to eliminate the cabinet-level Board of Higher Education (BHE) and Department of Higher Education (DHE), to decentralize institutional governance and to create a smaller state higher education governance structure fueled the 1995 debate.

In order to make these developments more understandable and relevant to leaders in other states, this paper provides background information on the events in New Jersey, focusing primarily on the substance of the proposals, components of the legislation and the process through which the changes in New Jersey were developed. The political dimensions and debates behind these changes also are relevant, but these are not addressed except as they relate to the substantive issues raised by the new structure. In the final sections, this paper draws observations and lessons from New Jersey's experience relevant to the issues faced in other states.

### State-Level Coordination in the New Jersey Context

By the early 1970s, most states had established state higher education agencies to carry out statewide planning, curb unnecessary duplication of academic programs, make budget recommendations to the governor and state legislature, administer federal and state regulatory and grant programs, implement accountability requirements and perform other state-level functions. Government and higher education leaders at both the state and national levels recognized the importance of these functions in ensuring constructive relationships between state governments on one side and colleges and universities on the other and in helping to coordinate their respective priorities.

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[1] The findings and opinions expressed in this paper are those of the author, Aims C. McGuinness, Jr., who served as a consultant and observer during the events described. The paper was reviewed for accuracy by several parties, but does not necessarily reflect positions of the Education Commission of the States.

Since their establishment, state higher education agencies and boards have frequently been called upon to play the difficult and delicate role of interpreting state priorities to higher education leaders while at the same time conveying higher education's needs to state political leaders. Formed to bring a degree of rationality to the massive expansion of public higher education in the 1960s, many of these boards shifted their emphasis to overseeing the adjustment of public institutions to the stable enrollments and constrained economic conditions of the 1970s. Then, in the 1980s, as governors' and state legislators' concerns about costs and quality intensified, some state higher education boards moved from being relatively passive planning and regulatory bodies to being aggressive agents for promoting change within their state's institutions. As boards increased their roles and responsibilities, the tensions often mounted between boards and their constituent institutions, on the one hand, and between leaders of state government and higher education, on the other.

Given these changing conditions and demands, gubernatorial or legislative proposals to eliminate or restructure state higher education boards are not uncommon. Governors and legislators often propose such measures in reaction to choices board members make in carrying out their statutory responsibilities. At any point in time, a state board risks alienating either a state legislator, who feels the board has not acted strongly enough to demand institutional accountability, or an institution leader, who feels the board has unfairly curbed the legitimate aspirations of colleges and universities.

Despite this, few state higher education boards ever have been eliminated. If anything, the trend of the past decade has been just the opposite. Frustrated by institutional turf battles and perceptions that institution leaders are unresponsive to state priorities, legislators most often have strengthened state higher education agencies.

To understand the 1994 restructuring of New Jersey's state department and board, one must take into account certain characteristics and historical features of higher education in that state. Total enrollment in 1993-94 was 341,000, of which 18% (or 63,000 students) attended independent institutions. The state's higher education institutions include two multi-campus universities — Rutgers University and the University of Medicine and Dentistry of New Jersey (UMDNJ). Other public institutions include the New Jersey Institute of Technology (NJIT), nine state colleges and 19 county colleges — New Jersey's form of community colleges. Of the 25 independent (nonpublic) colleges and universities in New Jersey, 15 received substantial amounts of assistance through direct appropriations in the state budget.

Historically, New Jersey was a latecomer to public higher education. New Jersey did not explicitly commit to educating its own residents in public colleges and universities until the late 1950s and early 1960s. Rutgers, previously a private institution, became the state university in 1956. In 1960, New Jersey had six state teachers' colleges, one municipal engineering college and no public medical school. Sixty percent of its residents, who were enrolled in higher education, attended out-of-state institutions. Spurred by the 1966 report of a special committee chaired by Princeton University President Robert Goheen, public higher education in New Jersey began to change and expand.

Under the guidance of the BHE and DHE, established in 1968 as recommended by the Goheen report, state leaders developed a county community college system, transformed the

teachers' colleges into multi-purpose institutions, created three new state colleges, established NJIT as a statewide institution and founded UMDNJ, all of which dramatically increased enrollments. Yet, even with this expanded state commitment, roughly 40% of New Jersey's college students still attended out-of-state institutions by the early 1990s.

During the 1970s and 1980s, New Jersey's higher education structure had features of comparatively decentralized institutional governance and strong state regulatory control. Each New Jersey public institution had — and still has — its own governing board. The method of board appointment and the degree of autonomy of each institution varies significantly.

Reflecting its origins as a private university, Rutgers has greater independence from state regulatory control than any of the other institutions. Although the governor appoints six of the 11 board members, the remaining five members are appointed by a largely advisory board of trustees with legal origins in the institution's history as a private institution. NJIT also functions with substantial independence of state government — operating under a contract with the state. UMDNJ receives more state supervision, however, because the governor appoints most of its board members with the advice and consent of the senate.

Prior to the 1994 Restructuring Act, the autonomy of state colleges was even more limited than that of universities **because of overlapping authority and roles**. The BHE appointed, subject to the governor's approval, the members of the state college boards and two of the 10 public members of the county college boards. The other members of the county boards were appointed by the county governments. The DHE's chancellor also sat on the state college boards as an ex officio member. This overlapping representation and appointment authority was not true of the universities' governing boards.

Compared to other states, New Jersey's higher education structure was classified as a "strong regulatory coordinating board state" prior to 1994. The term "coordinating board" generally refers to boards that do not govern institutions. That is, coordinating boards do not function as the legal corporate board for institutions and, in particular, do not regulate institutional personnel policies. New Jersey's BHE/DHE structure was an exception to the rule — specifically with respect to the nine state colleges. BHE's authorizing statute explicitly assigned it power to "set policy on salary and fringe benefits, and establish general personnel policies for the public institutions of higher education."

One can trace this strong BHE/DHE regulatory role to two historical precedents. First, New Jersey's state institutions were established and operated as government agencies, not as independent "corporate entities," the legal status enjoyed by Rutgers. Second, before being transferred to the BHE/DHE in 1968, the New Jersey Department of Education regulated state colleges. As a consequence, the state colleges' boards of trustees had little of the authority and responsibility for institutional governance that one commonly associates with such boards in other states.

Reflecting the New Jersey state colleges' status as government agencies, all state college personnel were, until 1985, under the control of the State Department of Personnel, not the BHE/DHE. To complicate matters more, the Governor's Office of Employee Relations, handled and still handles all collective bargaining for state college employees. In contrast,

faculty and staff of all other public higher education institutions, including the county colleges, were employees of those colleges. Each of those colleges' boards has authority to handle its own collective bargaining negotiations (although these were heavily influenced by the precedent of state-level collective bargaining agreements.)

## Changes and Initiatives Since 1985

The 1985 State College Autonomy Act granted state colleges increased fiscal and administrative autonomy from state government. The act also moved the purview of non-civil service employees (e.g., faculty, librarians and professional staff) from the Department of Personnel to the BHE/DHE. It did **not**, however, delegate responsibility to the state college boards for personnel structure (e.g., titles and description, salary ranges and guidelines) for these state college faculty and staff members.

Because of these and other changes initiated and implemented by the board leadership, governors, state higher education leaders and state legislatures across the nation widely recognized New Jersey as one of the most progressive and aggressive states in terms of higher education policy and change throughout much of the 1980s. During that time, Governor Thomas H. Kean and Chancellor T. Edward Hollander led a comprehensive effort to improve the quality of New Jersey higher education, and increase minority student access and achievement. Major initiatives included not only those aspects of the State College Autonomy Act mentioned above, but also an innovative budget strategy in which extensive use of special incentives or "challenge grants were used" and a far-reaching initiative to assess college outcomes. Furthermore, the state's strong economy influenced substantial increases in higher education funding. (From 1983 to 1989, appropriations per student adjusted for inflation increased by 47%.)

The situation changed dramatically beginning in 1990. The economy soured, the state's voters elected a new governor with priorities focused less on higher education than other issues, and BHE appointed a new chancellor. Between 1989 and 1993, appropriations per student declined by 28%. Student costs skyrocketed as tuition at senior institutions soared. The ratio of tuition to state E&G funding (Education & General is the standard category of core institutional funding) per FTE (full-time equivalent student) increased from 27% in 1987 to 32% in 1993. After 1990, the DHE faced several state mandates for budget cuts and staff reductions. As part of a statewide effort to eliminate unnecessary government staffing, the number of state-funded positions in the department decreased from 216 (a high for the decade) to 119 from July 1989 to August 1993 — a 45% cut. The state legislature eliminated several controversial programs, such as the comprehensive state assessment program, but despite staff reductions, the other statutory mandates of BHE/DHE remained unchanged. As a result of these factors, the 1993 elections led many within the higher education community to discuss — at least privately — the future role of BHE/DHE.

Following Governor Whitman's election in November 1993, neither she nor her transition team recommended the BHE/DHE be eliminated, at least not immediately. But the governor, like other state and higher education leaders, clearly recognized the need for a thorough review of the agency's role and function. Therefore, when Governor Whitman announced her

plans to completely abolish the BHE/DHE in March 1994, many people were surprised.

Tensions were apparent between the BHE, the current chancellor and the state institutions, yet it would be a mistake to attribute the actions of the governor and legislature to specific issues or personality conflicts. The gap between the agency's statutory mandate and its diminished staff capacity alone justified changes that the BHE and chancellor may not have been able to make without state-level intervention.

## Restructuring New Jersey's Higher Education System

Governor Whitman's proposal to restructure the state's higher education system included: (1) decentralizing governance responsibility from the state to individual state colleges and universities, (2) reducing state government and bureaucracy by eliminating the cabinet-level BHE and DHE, and (3) maintaining the state's commitment to higher education accessibility, affordability and accountability. Within three and a half months, a governor's advisory panel had translated the original proposal into a specific plan, and the legislature had enacted the Higher Education Restructuring Act of 1994.

Based largely on the advisory panel's recommendations, the BHE and DHE were eliminated by July 1994, and a new structure put in place. This structure placed greater governance responsibility and authority on each public college and university's board of trustees and created a new Commission on Higher Education composed largely of lay members appointed by the governor and confirmed by the state senate. In addition, a Presidents' Council, an advisory body composed of all state public and independent college and university presidents, was created.

The path between the governor's initial announcement and these eventual outcomes was by no means clear at the outset, however. At the March announcement, the governor released an outline of how the state might reorganize higher education coordination and governance that differed somewhat from the eventual legislation.

Key provisions of the initial outline included:

- More explicit delegation of authority and responsibility to the boards of trustees of each public college and university
- Assignment of responsibility for statewide coordination — especially review and approval of academic programs — to the Presidents' Council
- Continuation of student aid programs so that students and their families would not be financially strained during the restructuring efforts
- Establishment of a commission of distinguished New Jersey citizens to develop a long-range plan for higher education in the state. The panel would advise the governor on higher education issues and propose policies, but it would not be directly involved in the policymaking process.

Because of the immediate media attention and arguments between proponents and opponents, this outline became sharply etched in the public's mind. Months after the new structure had become law and was being implemented, many people within New Jersey and in the higher education community throughout the country still believed it was the final plan. Many also believed the new structure eliminated a statewide coordinating board composed of distinguished lay members and replaced it with the Presidents' Council. Neither is, in fact, the case.

The eventual legislation signed by the governor did retain the original emphasis on decentralization and increased responsibility for college and university boards. In contrast to the initial outline, an independent entity was established to administer student aid programs. While the Office of Student Assistance is organizationally listed under the Department of Treasury, it is not supervised or controlled by the Department. In addition, the final plan, unlike the governor's outline, **did not** replace coordination by a statewide board with voluntary coordination by the college and university presidents; it only replaced a large regulatory department with a much smaller higher education commission composed largely of lay citizens. The new commission's membership, role and staff size are similar to many coordinating boards in other states. Rather than make the Presidents' Council a replacement for lay coordination, the enacted legislation gave the council the responsibility to advise the Commission on Higher Education on critical issues and promote voluntary coordination among state institutions.

## Evolution of the Restructuring Plan

The differences between the original outline and the final plan resulted from the work of the Governor's Advisory Panel on Restructuring, appointed two weeks after the initial announcement. Members included institution presidents and faculty members, trustees of both state and county colleges, a state legislator, a business leader and a former gubernatorial aide. The panel was charged with:

> ". . . recommending a plan to implement the Governor's proposal to eliminate the State Department of Higher Education and to shift its core functions to other areas of State government or to the institutions of higher education. Institutions of higher education are one of the most valuable and underutilized resources in the State, and the elimination of State oversight and its accompanying bureaucracy will serve to unleash the creativity and innovation of these institutions."

Although the governor only gave the advisory panel one month to complete its work, she stressed that she wanted the group to embody the best thinking possible about the future structure of New Jersey higher education.

The advisory panel met four times, held two public hearings and exchanged innumerable drafts of the final report. Panel members were given extensive background information on New Jersey higher education and higher education structures throughout the nation. In addition, members received hundreds of written communications from institutional leadership,

faculty members, students, public interest groups (e.g., the League of Women Voters), unions and elected officials.

The panel faced two basic tasks. First, it had to disassemble the existing higher education structure, ensuring that all the functions of BHE/DHE were (a) allocated to existing agencies or organizations, (b) allocated to new organizations, or (c) discontinued altogether. Second, it had to reassemble a structure that would make sense for the future. Throughout their deliberations, panel members stressed their goal was not to establish an entirely new system in a manner that implied the previous structure had somehow failed. On the contrary, they viewed their duty as one of moving the system "an appropriate next step" in an evolving process and maturation in which BHE/DHE played a critical and positive role.

Despite the original proposal's stated intent to give a council of presidents the preeminent coordinating role, the advisory panel reached early consensus that New Jersey needed a highly respected, independent higher education commission composed primarily, if not exclusively, of distinguished lay citizens. At least three practical considerations contributed to this consensus. First, the plan's emphasis on decentralization, autonomy and deregulation had to be balanced by clear provisions for public accountability at the institutional governing board level and at the state level in order to gain legislative and public support for proposed legislation. Second, the advisory panel was concerned that a body composed primarily of institution representatives would not have sufficient credibility with state leaders or the public to carry out its stated mission. Third, some members of the panel feared that a council of presidents would be unable to resolve major conflicts among institutions on mission differentiation.

The many questions addressed by the advisory panel included the following structural and governance issues:

1. **What should be the basic roles and responsibilities of each of the new state-level entities?** The key decision addressing this question was that the Commission on Higher Education should be a nonpartisan, public body "to provide, in cooperation with the Presidents' Council, overall planning and policy coordination for the higher education system, as well as to provide advice to the governor and legislature on policy and budget priorities." The Presidents' Council should be a "body corporate and public," potentially funded by institutional dues. It should serve primarily to improve coordination and sharing of resources among institutions and provide advice and recommendations to the commission on statewide planning, policy, budget and other issues. The panel also recommended that the state draw together the various student assistance entities within a Higher Education Student Assistance Authority. The Office of Student Assistance would operate independently from, but within the policy framework of, the commission, and would be located organizationally within the Department of Treasury.

2. **Should governing boards have the authority to determine their own size and composition?** The advisory panel said, "yes."

3. **Should the governor appoint the governing boards?** The advisory panel recommended that the governor make the appointments from a group of board-selected nominees.

4. **What should be the authority and responsibility of each entity for approval of new academic programs?** The panel advised that governing boards have final authority and responsibility for all academic decisions within institutions. The advisory panel decided when controversy arises over the approval of new programs which "demand significant added resources, or raise serious questions of duplication," the commission should have final authority. Both these actions should be based on recommendations from the Presidents' Council. Second, the council should make the final review of programs that demand significant added resources or raise questions of program duplication, but its review would only be advisory to the institutional governing board. These conclusions reflect the strong convictions of some panel members that governing boards should not only be responsible but should be held publicly accountable for their program decisions.

5. **Should governing boards have authority to establish their own tuition policies?** Some panel members feared that, if given unfettered authority, boards would raise tuition and thereby undermine the state's commitment to accessibility and affordability. However, the panel concluded that the state should give the governing boards the ability to make this decision and allow the public to hold governing boards accountable for responsibly setting tuition and fees.

6. **What role should the Commission on Higher Education and the Presidents' Council play in the budget process?** Under previous policy, institutions submitted their budgets to both the Department of Treasury and DHE. DHE reviewed the budgets and then developed and recommended a consolidated budget for all higher education. DHE required institutions to adjust their requests to meet its recommendations. Since the governor and legislature did not base their budget recommendations on the DHE position, institutions faced a double process — one with DHE and the other with state government. The advisory panel recommended that, within the new structure, institutions submit their budgets directly to the Department of Treasury. The commission, with the advice of the council, would focus on policy direction and long-range financing strategies rather than on detailed budget review.

7. **Where should research and data functions be placed?** Several institution leaders argued strongly that these functions should be placed with the Presidents' Council. Their concern was that, if these functions were placed with the commission, the emphasis would shift to public reporting on performance and inter-institutional comparisons. They also believed that commission staff might misuse or disregard institutional data and attempt to develop its own, potentially costly, information system. Others argued that the commission must have independent authority to gather and analyze information, including making inter-institutional comparisons as necessary. The panel decided to place these functions in the commission but to indicate that they would be carried out with the advice and involvement of the Presidents' Council.

8. **What is the membership of the Presidents' Council and how should the chairperson be selected?** Since the council itself would include every president of state or state-aided institutions, it would be too large to function without an executive body. The panel decided that the three major universities — Rutgers, NJIT and UMDNJ — should have permanent membership. In order to ensure representation of all of the sectors, the council also should have three state college presidents, three independent college presidents and four community college presidents, all to be selected by their sector peers. The chairperson should serve a two-year term and rotate among the sectors.

9. **What should be the statutory authority and responsibilities of the new Commission on Higher Education?** While stressing the Presidents' Council's advisory role, the panel agreed that the commission should have sufficient authority to play a leadership and advocacy role for all higher education. It should be the principal body for making recommendations to political leaders about annual budgets and long-range financing policies, and planning for the higher education system, as a whole. It should be the final authority on institutional missions. Important regulatory functions, such as institutional licensure and granting of institution's authority to have "university" status, should also fall under the Presidents' Council's authority. In other words, the commission should have authority comparable to many of the "advisory" coordinating boards in other states.

10. **What should be the commission's composition?** The panel easily reached consensus that the commission should be composed of lay, nonpartisan members. The panel, debated, however, whether a minority of the membership should be drawn from persons already serving on public and independent college and university boards. Those arguing for this mixed membership emphasized that the new commission would need individuals who were familiar with the institutions and especially sensitive to issues of institutional autonomy. The advisory panel agreed that for the first four years the commission should include 15 members: the chairperson of the Presidents' Council and 14 lay persons appointed by the governor, six of whom should be lay members of governing boards. After four years, the governing board members' terms would expire and the commission would shrink to nine members: the Presidents' Council chairperson plus eight members appointed by the governor.

11. **Should the chairperson of the commission be a member of the governor's cabinet and how should the chairperson be selected?** The advisory panel reached consensus that making the chairperson a member of the cabinet would re-establish a cabinet-level department like the BHE/DHE. The advisory panel also agreed that the governor should appoint the commission's chairperson as well as the vice-chairperson. But, they decided that it would weaken the commission to have the chairperson be a member of the governor's cabinet by placing the chairperson in an untenable position of having to be both an advocate for higher education while at the same time being obligated as a cabinet member to conform to the governor's policy and budget positions.

12. **What changes, if any, should be recommended on collective bargaining and the civil service status of certain institution employees?** Despite the appearance of giving institutions, especially state colleges, increased autonomy, abolishing the BHE/DHE would have no impact on one of the most centralized features of New Jersey state government — the collective bargaining process, and laws and regulations governing state employees. Eliminating collective bargaining responsibilities, including related regulations, or delegating them to institutions would, in essence, open up all issues of bargaining. Also, raising the possibility that agreements would no longer be bargained centrally by the governor's office, but by sectors or individual institutions, would have aroused a storm of opposition from organized labor, potentially threatening the whole restructuring proposal. Faced with these prospects, the advisory panel recommended that all BHE/DHE regulations relating to terms and conditions of employment be transferred to the new commission for one year until such time as a commission-led study could, with the advice of each sector, determine what regulations should be retained and report findings to the governor and legislature. Ironically, this decision technically assigned the new commission the far-reaching regulatory authority on personnel matters that had been a core feature of the previous BHE/DHE.

## Legislative Action

While it is not the purpose of this paper to analyze the politics surrounding enactment of the New Jersey Higher Education Restructuring Act, several aspects of the political context are important to understanding the substance of the final legislation. First, if there was any point on which the bill's opposition might have been able to gain support within the legislature, it was on the argument that such a major change should not be made with haste. Because Governor Whitman had overwhelming majorities in both houses of the legislature, few doubted that the proposal would be approved in substantially the form proposed. Nevertheless, they were concerned about the speed with which the governor intended that the proposal be developed, debated, enacted and implemented.

Second, the BHE and chancellor mounted an intensive public campaign, primarily through the state's major newspaper, the Newark *Star Ledger*, to defend the BHE/DHE record and discredit the governor's proposal. Almost daily front page reports in the *Star Ledger* questioned one provision or another of this proposal. This campaign ultimately had little final impact on the proposal's basic structure because of the governor's political strength in the legislature. The negative tone of the debate, however, discouraged the governor and newly formed commission from drawing on many of the leaders from the former structure in the implementation process and intensified their interest in making a clean break with the past.

Third, the legislature responded to concerns expressed on several key points by many who testified, including representatives of the state's minority community and the respected former chancellor, T. Edward Hollander. These concerns, which became the basis for several amendments, included: the need for checks on gubernatorial authority to direct (and in the views of some, intrude into) higher education policy; the need for stronger requirements for state institutions to be held publicly accountable; the need for the state to maintain ownership

and control of state property; and the need for an evaluation of the restructuring initiative two and five years after its enactment.

The legislature also assigned the Commission on Higher Education the responsibility of conducting several special studies. These studies and reports comprised much of the commission's work during the first year of its existence, focusing on the following areas:

- The collective bargaining process and civil service classification of certain state college employees
- Articulation between higher education and elementary and secondary education
- Administration of student assistance programs (including the best structure to serve the state and students in the long term)
- The manner in which higher education is funded, including mission-based funding, multi-year funding and tuition establishment.

**Initial Implementation and Current Status**

The restructuring act was implemented immediately, and the new structure took effect July 1, 1994. As required, BHE/DHE ceased to exist, and all senior staff were transferred or terminated. The Commission on Higher Education began operating with a small staff that would ultimately reach 21. The majority of staff positions within DHE had been responsible for student aid administration. These positions (and in most instances the individuals who held these positions) were transferred to the new Office of Student Assistance relocated in, but not of, the state Department of Treasury. (See Appendix for a side-by-side comparison of old and new structures.)

When the legislature adjourned, Governor Whitman had appointed, with senate confirmation, members for the new Commission on Higher Education and had named a retired CEO as chairperson. To oversee the transition process, the governor designated a team, which included a college president who had prior experience in statewide coordination, two external consultants, the chairperson of the governor's advisory panel on higher education restructuring and two staff members. The new commission held its first meeting in July 1994 and subsequent regular meetings to organize and undertake its newly defined responsibilities.

In summary, during 1994, New Jersey eliminated its pre-existing state higher education structure and increased the authority and responsibility of its public colleges and universities to govern themselves. But the state did not eliminate state leadership and coordination roles. It established a new structure better aligned with the state's current and future needs for a more flexible and responsive system functioning within the framework of statewide accountability and coordination.

Both the Commission on Higher Education and the Presidents' Council immediately concentrated on addressing several issues that will test their ability. The commission must

demonstrate that it can provide systemwide policy leadership and avoid slipping back to bureaucratic, regulatory practices. Further, it must show not only that it can develop a public agenda for the future of higher education in New Jersey through its Master Plan and other planning processes, but that it can link this vision with its recommendations on long-range financing policy. Specifically, the commission must make recommendations to the governor and legislature on "the manner in which higher education is funded, including mission-based funding, multi-year funding and tuition establishment." Both the commission and the council will face challenges from institutions intending to establish high cost graduate and professional programs. These requests will test the structure's capability to curb costly program development and duplication. The commission's recommendation to the governor and legislature on issues of collective bargaining could also have profound, long-term effects on the system's flexibility and responsiveness to changing public priorities.

While it is still too early to assess long-term effectiveness, during initial meetings the commission acted impressively to organize its work, forming a series of task forces to address its statutory mandates through a highly participatory process. Such a process has advantages, especially in terms of conveying unity and gaining ownership by key stakeholders. But it also has the risk of leading to policy recommendations primarily based on consensus among higher education interest groups rather than on fresh thinking about how the system can better connect with the state's public priorities. The commission and its staff also will face a challenge achieving integration between and among task forces working on related issues in a potentially fragmented process.

The reality is that structural change in itself will not guarantee fundamental change in state higher education leadership. In New Jersey, much will depend upon the wisdom and skills of the new commission members and staff and the executive board of the Presidents' Council.

## Lessons from New Jersey

The restructuring of state higher education roles in New Jersey demonstrates several observations or principles relevant to other states as well.

1. **Periodically, states need to take a fresh look at their state-level policies and structures to determine whether they are adequate to the current challenges.** Escalating demands, severely limited public resources, dramatic technological advances and other conditions are leading to fundamental changes in the delivery of higher education services. States will need much more flexible and responsive institutions and systems. State agencies and structures developed during the 1960s and 1970s and policies and practices accumulated over several decades may serve as barriers to change, rather than positive forces for change. The issue is not whether there is an appropriate state role, but what the necessary roles are in today's environment and how they are performed. The challenge for state and institutional leadership is to undertake a review and make necessary changes in state policies before political leaders feel compelled to force changes.

2. **States should consider not only *decentralizing* governance, but also *redefining the center* to ensure that the decentralized system responds and is accountable to public priorities.** In most state governance debates, college and university leaders will argue that increased institutional autonomy is critical to the ability of colleges and universities to thrive in the increasingly competitive, demanding climate of the 1990s. But the sum of institutional aspirations is not necessarily the same as the statewide public interest. A commission composed primarily of independent lay members often provides the best vehicle to develop a statewide plan, to resolve conflicts among institutions regarding expanded missions and new academic programs, and to represent the public interest on questions of accessibility, affordability and quality. At the same time, a lay commission often lacks any real constituency and must work hard to maintain the support and involvement of institutions while articulating the underlying public interests. Restructuring should recognize and provide opportunities for college and university presidents to support and assist statewide higher education coordination. The New Jersey case illustrates how states can assign presidents a public and corporate responsibility to make that coordination work. Similarly, the performance of institutional governing boards is critical to the ability of a state to sustain highly decentralized governance. All affected parties must be part of the conversation and built into the design of restructured state systems.

3. **The general public has little interest in debates over governance of higher education.** The general public often sees governance debates as little more than turf battles or power struggles among narrow interests. The public is concerned mainly with issues facing the state's current or future generation of students — accessibility, affordability and quality. Restructuring efforts should engage the public, as well as state leaders, in defining the preeminent public concerns about higher education in the state, and then make sure existing structures, policies and leadership roles effectively address these concerns.

4. **Reorganization alone may not be sufficient to change underlying state practices and political cultures.** Centralized, bureaucratic behavior or other types of ineffective organization and leadership cannot be solved merely by shifting responsibility to a new agency or agency head. The roots of the problem must be addressed through more fundamental and philosophical changes in state government itself and in its relationship to higher education.

5. **Higher education structures from one state should not and cannot be transferred to or imposed on another state.** Each state has its own unique history, culture, conditions and needs that limit the extent to which even the most successful higher education structures can be duplicated with the same results in another state. It would be a serious error for other states simply to copy New Jersey's experience, as some have already tried to do.

Public pressures for smaller, more effective and less costly state governments will continue to fuel efforts to restructure state higher education agencies. Before these pressures lead to precipitous and potentially damaging changes, state leaders and college and university presidents should work together to review the adequacy of current structures and policies for

the challenges their states and institutions will face in the next decade. If changes are appropriate, the state's political leaders will need sound information and concrete proposals on which to act.

## APPENDIX

## SIDE-BY-SIDE COMPARISON OF NEW JERSEY HIGHER EDUCATION STRUCTURE*

| | PREVIOUS STRUCTURE | NEW STRUCTURES | | |
|---|---|---|---|---|
| | **Board of Higher Education/ Department of Higher Education** | **Commission on Higher Education** | **Presidents' Council** | **Office of Student Assistance** |
| **Basic Structure** | • The Department of Higher Education, under the policy direction of the Board of Higher Education, staffs the board, administers state and federal student assistance programs, and manages governmental relations. | • The Commission is established "in, but not of" the Department of State, meaning that it functions as an independent state entity. The Commission is not a cabinet-level agency. The chair may attend cabinet meetings at which higher education issues are considered. | • The council is established as a voluntary coordinating body consisting of the president of each institution of higher education which receives direct state support. The council is advisory and is self-funded through existing institutional staff or through fees paid by member institutions. | • Established "in, but not of, the Department of Treasury." Responsible for administration of student assistance programs. |
| **Executive Officer** | • The department is headed by a chancellor, who is appointed by the board to a 5-year term, subject to the governor's approval. The chancellor is a member of the governor's cabinet. | • The executive director is the staff director for the commission and is responsible for leadership and direction of the commission staff. The executive director is appointed by commission members. | • The Presidents' Council has no executive officer only a chairperson (see below). | • The executive director is appointed by the governor. |
| **Staff** | • Approximately 289, but 200 of these administered student aid programs. Of the 200, only 30 were state funded. All other student aid staff were federally funded. | • Approximately 21, compared to 89 in non-financial aid functions under the previous structure. | • The state neither mandates nor funds the hiring of staff. | • Approximately 200. Essentially no change from previous structure. |

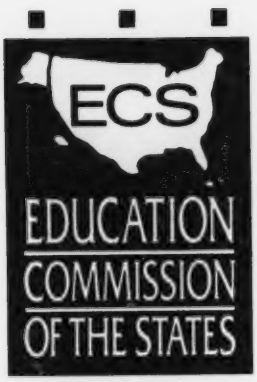
(continued)

* Note: The side-by-side comparison includes only highlights of the existing and new structures. It is not intended as a complete listing of each entity's full statutory responsibilities.

| | PREVIOUS STRUCTURE | NEW STRUCTURES | | |
|---|---|---|---|---|
| | **Board of Higher Education/ Department of Higher Education** | **Commission on Higher Education** | **Presidents' Council** | **Office of Student Assistance** |
| **Membership** | • 18 members: 9 appointed by the Governor with the advice and consent of the Senate, selected for their knowledge, interest, or experience in addressing the problem of higher education; 7 leaders serve ex officio and represent various boards and associations (independent colleges, state college boards, county college boards, the state board of education, NJIT, UMDNJ, and Rutgers). | • In initial 4 years, 15 members: 10 public members appointed by the governor with advice and consent of the Senate — 6 are members of governing boards of public and independent institutions, and 4 additional members appointed by the governor; 2 recommended by the Senate President and 2 by the Speaker; and the chair of Presidents' Council serves as ex officio. After 4 years, 9 members: 6 public members appointed by the governor with advice and consent of the Senate; 2 public members appointed by the governor or recommended by Senate President; and the chair of the Presidents' Council serves as ex officio. Executive director serves as ex officio, nonvoting member. Also, two students serve as nonvoting members. | • The Executive Board of the council includes 14 members: the presidents of Rutgers, NJIT, UMDNJ, 3 presidents of state colleges, 3 presidents of independent institutions, and 5 county college presidents. | • The Office includes the Student Assistance Board and the Higher Education Assistance Authority. |
| **Chair** | • Elected by BHE annually. | • Initially, appointed by the governor for a two-year term. Thereafter, elected by commission, subject to removal by the governor. | • Elected from members of Presidents' Council for a two-year term and rotated to represent all sectors. | • The Student Assistance Board and the Higher Education Assistance Authority have separate chairpersons for their boards; however, amendments have been proposed to the legislation that would allow for only one chairperson with supervisory responsibility over both organizations. |

(continued)

| | PREVIOUS STRUCTURE | NEW STRUCTURES | | |
|---|---|---|---|---|
| | **Board of Higher Education/ Department of Higher Education** | **Commission on Higher Education** | **Presidents' Council** | **Office of Student Assistance** |
| **Statutory Responsibilities** | • Conduct research on higher education needs.<br>• Develop and maintain comprehensive master plan.<br>• Establish new colleges, schools, institutes, departments, branches and campuses.<br>• Establish minimum standards for all public institutions granting degrees, approve discontinuance of degrees and programs.<br>• Review periodically existing programs of instruction, research and public service in the public institutions and advise them on desirable changes.<br>• Receive all budget requests from institutions, coordinate and balance such requests, and submit a combined request for appropriations annually to the governor.<br>• Set policy on salary and fringe benefits, and establish general personnel policies for public institutions.<br>• License institutions of higher education and approve institutions for university status.<br>• Approve the basis or conditions for conferring degrees.<br>• Require from institutions such reports as may be necessary to enable the board to perform its statutory duties.<br>• Be the agency of communication with the federal government and receive recommended disbursement of such funds by the state.<br>• Exercise visitorial general powers of supervision and control over such institution of higher education as may be utilized by the state.<br>• Establish guidelines within which the board of trustees of the state colleges shall establish tuition rates and all other student fees.<br>• Appoint, with the governor's approval, members of the state college boards of trustees and two members of each county college board. | • Statewide planning including research on higher education issues and development of a comprehensive master plan.<br>• Advocate for higher education.<br>• Make recommendations to the governor and legislature on higher education initiatives and incentive programs.<br>• Final administrative decisions over new academic, programs that go beyond an institutions programmatic mission.<br>• Review institutional budget requests in relation to their missions and statewide goals and propose a coordinated budget policy statement to the governor and legislature.<br>• Final administrative decisions on institutional licensure and university status.<br>• Apply for and accept grants from federal government and act as the lead agency in communication with the federal government.<br>• Chair has the power of visitation at public institutions at the request of the governor.<br>• House the Education Opportunity Fund Program.<br>• Work with the Board of Education and the Department of Education to further articulation and collaboration between K-12 and higher education. | • Advise and assist the commission on developing and updating a statewide plan for higher education.<br>• Provide public information and research on higher education issues.<br>• Provide policy recommendations on statewide higher education issues.<br>• Review and make recommendations to the commission on new programs which exceed or alter the programmatic mission of an institution or which require significant added resources or raise significant issues of duplication.<br>• Make recommendations on student aid funding.<br>• Upon referral by the commission, make recommendations on institutional licensure and university status.<br>• Encourage formation of regional and cooperative programs.<br>• Transmit to the governor, legislature, and Commission on Higher Education an overall budget policy statement for higher education. | |




Education Commission of the States
707 17th Street, Suite 2700
Denver, Colorado 80202-3427
303-299-3600
FAX: 303-296-8332
e-mail: ecs@ecs.org